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OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
IRVINE CA 92614

In re Application	:
Goddard, et al.	:
Application No. 10/063,537	: DECISION ON APPLICATION
Filed: May 2, 2002	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. GNE.3230R1C25	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705", filed January 30, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred thirty (230) days to three hundred eleven (311) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred ten (310) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 8, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred thirty (230) days. On

January 30, 2007, Applicants timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is three hundred eleven (311) days.

Applicants assert entitlement to a patent term adjustment of three hundred eleven (311) days on the basis that the PTO improperly assessed Applicants a delay of eighty-one (81) days for responding to a February 8, 2005 final Office action by filing an RCE on July 28, 2005. Applicants assert that the February 8, 2005 final Office action was mailed to an incorrect address, and that the final Office action was re-mailed to the correct address on April 27, 2005. Accordingly, Applicants assert that the July 28, 2005 RCE was timely filed.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred thirty (230) days based on an adjustment for PTO delay of three hundred forty-nine (349) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and twenty-three (23) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by Applicants' delays of one (1), eighty-one (81), and sixty (60) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The adjustment of eighty-one (81) days is at issue.

The adjustment of eighty-one (81) days has been found to be incorrect. A review of the file reveals the final Office action mailed February 8, 2005 was returned to the Office as undeliverable because it did not contain an address. Accordingly, Applicants should not have been assessed delay of eighty-one (81) days for filing an RCE on July 28, 2005, when the Office re-mailed the final Office action to the correct address on April 27, 2005. However, Applicants should have been assessed delay of one (1) day, as the July 28, 2005 RCE was not filed within three months pursuant to 37 C.F.R. § 1.704(b).

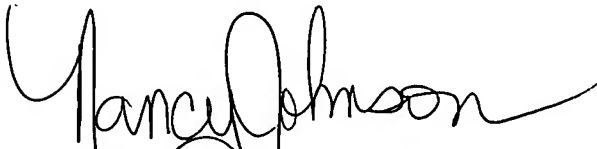
In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred ten (310) days** (372 (349+23) days of PTO delay and 62 (60+1+1) days of applicant delay).

¹ Applicants filed the application for patent term adjustment together with payment of the issue fee.

The \$200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 11-1410, as authorized.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large initial "N" and a long, sweeping underline.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Friday
Date: 8/24/2007

PALM INTRANET

Time: 13:16:05

PTA Calculations for Application: 10/063537

Application Filing Date:	05/02/2002	PTO Delay (PTO):	372
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	142
Post-Issue Petitions:	0	Total PTA (days):	310
PTO Delay Adjustment:	80		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
94	08/24/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
93	08/24/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	81		
85	11/08/2006	MAIL NOTICE OF ALLOWANCE			
84	11/07/2006	ISSUE REVISION COMPLETED			
83	11/07/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	11/07/2006	NOTICE OF ALLOWABILITY			
81	10/13/2006	DATE FORWARDED TO EXAMINER			
80	09/28/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
79	10/13/2006	DATE FORWARDED TO EXAMINER			
78	09/28/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
77	10/13/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
76	10/02/2006	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
75	09/28/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
74	09/28/2006	PETITION ENTERED			
73	09/07/2006	FINISHED INITIAL DATA CAPTURE			
72	08/10/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
71	08/02/2006	ISSUE FEE PAYMENT VERIFIED			
70	08/02/2006	ISSUE FEE PAYMENT RECEIVED			
69	06/16/2006	EXPORT TO INITIAL DATA CAPTURE			
68	06/13/2006	MAIL NOTICE OF ALLOWANCE			
67	06/12/2006	ISSUE REVISION COMPLETED			
		NOTICE OF ALLOWANCE DATA VERIFICATION			

66	06/12/2006	COMPLETED			
65	06/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
64	06/12/2006	NOTICE OF ALLOWABILITY			
63	03/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	12/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	07/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	03/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	56
59	03/31/2006	DATE FORWARDED TO EXAMINER			
58	03/27/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	03/31/2006	DATE FORWARDED TO EXAMINER			
56	03/27/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		60	49
55	03/31/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
54	03/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	03/27/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
52	01/17/2006	DATE FORWARDED TO EXAMINER			
51	12/20/2005	AMENDMENT AFTER FINAL REJECTION			
50	12/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	10/26/2005	MAIL FINAL REJECTION (PTOL - 326)			
48	10/25/2005	FINAL REJECTION			
47	07/28/2005	REFERENCE CAPTURE ON IDS			
46	07/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	07/28/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
44	08/24/2005	DATE FORWARDED TO EXAMINER			
43	07/28/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	08/24/2005	DATE FORWARDED TO EXAMINER			
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40	08/24/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

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38	04/27/2005	RESTART RESPONSE OF ACTION			
37	04/27/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
36	04/26/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
35	04/26/2005	CORRESPONDENCE ADDRESS CHANGE			
34	02/08/2005	MAIL FINAL REJECTION (PTOL - 326)	23		27
33	02/07/2005	FINAL REJECTION			
32	09/16/2004	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
31	09/16/2004	REFERENCE CAPTURE ON IDS			
30	09/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	27
29	09/16/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
28	09/27/2004	DATE FORWARDED TO EXAMINER			
27	09/16/2004	RESPONSE AFTER NON-FINAL ACTION		1	25
26	09/16/2004	WORKFLOW INCOMING AMENDMENT IFW			
25	06/15/2004	MAIL NON-FINAL REJECTION	349		-1
24	06/14/2004	NON-FINAL REJECTION			
23	04/14/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	09/09/2002	PRELIMINARY AMENDMENT			
21	09/10/2002	REFERENCE CAPTURE ON IDS			
20	09/10/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/14/2004	CORRESPONDENCE ADDRESS CHANGE			
18	04/14/2004	CORRESPONDENCE ADDRESS CHANGE			
17	04/14/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
16	04/12/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	09/15/2003	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
14	08/07/2002	CASE DOCKETED TO EXAMINER IN GAU			
13	08/01/2002	RECEIPT OF ACKNOWLEDGMENT LETTER			
12	08/01/2002	APPLICATION DISPATCHED FROM OIPE			
11	07/31/2002	APPLICATION IS NOW COMPLETE			
9	06/20/2002	RECEIPT OF ACKNOWLEDGMENT LETTER			
8	06/19/2002	RECEIPT OF ACKNOWLEDGMENT LETTER			

7	05/14/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
6	05/14/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
5	05/14/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	05/14/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	05/13/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/02/2002	ELECTRONIC FILING OF ORIGINAL APPLICATION PAPERS			
1	05/02/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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